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STATE FOR EAP/CM AND EEB/IPE, USPTO FOR TIM BROWNING, USTR
FOR LEWIS KARESH

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TAGS: [ECON](#) [EFIN](#) [EINV](#) [ETRD](#) [HK](#) [CH](#)
SUBJECT: RENEWED PUSH IN HONG KONG TOWARD LEGISLATED
PROTECTION OF INTELLECTUAL PROPERTY RIGHTS IN DIGITAL REALM

REF: 08 HONG KONG 2121

11. (SBU) Summary: USTR Assistant U.S. Trade Representative for China Affairs Timothy Stratford reassured Hong Kong-based business executives that the Obama administration will seek to maintain a bipartisan consensus in favor of free trade. During the April 4 discussion, Stratford described the potential benefits for China-U.S. trade resulting from the newly expanded bilateral Strategic and Economic Dialogue. The Hong Kong head of the Motion Picture Association of America (MPAA) said participants in the HKG-led "Tripartite Forum" (TF) agreed to abandon the TF's efforts toward a voluntary framework governing IPR protection in the digital realm; TF participants will instead petition the HKG to resume efforts toward legislated amendments to Hong Kong's existing Copyright Ordinance. Stratford listened to criticisms of the U.S. Consumer Product Safety Improvement Act (CPSIA) of 2008, and said he had heard that the U.S. Congress is examining technical amendments to improve the law. End summary.

12. (SBU) Comment: Post supports efforts by TF participants to request near-term legislated amendments that will establish a formal IPR protection framework for the digital realm in Hong Kong. The TF's contentious meetings over the past several months highlighted impasses among Internet service providers (ISPs)/online service providers (OSPs), content providers and content users that will likely not be resolved through memoranda of understanding or other "voluntary" solutions (reftel). End comment.

Stratford Discusses U.S. Trade Policy

13. (SBU) USTR Assistant U.S. Trade Representative for China Affairs Timothy Stratford met on April 4 with private sector executives in Hong Kong to discuss trade-related issues including: IPR protection, local market access for U.S. beef, and the CPSIA's effects on local and regional companies. In introductory remarks, Stratford said the Obama administration is committed to maintain a bipartisan consensus in support of free trade. He said U.S. Trade Representative Ron Kirk envisions spending "much time on Capitol Hill" to understand the trade-related concerns of both political parties.

14. (SBU) Stratford told his interlocutors that China recognizes the importance of free trade, generally supports the integrity of the World Trade Organization (WTO), and appreciates the value of WTO rules to help prevent protectionism, which would surely hurt China's exporters. At the same time, China faced protectionist pressures internally, and USTR is monitoring the situation closely. He said Chinese leaders are "more pragmatic than ideological" regarding trade issues, and the new Strategic and Economic

Dialogue with China represents an opportunity to improve the bilateral political relationship, with positive spillover effects into discussions on economic issues. The JCCT would also continue as an important mechanism for resolving trade issues.

Protection of IPR in Digital Realm

15. (SBU) MPAA Director Sam Ho described the HKG-led Tripartite Forum (TF) among ISPs/OSPs, content providers and content users. Established in late 2008 to design a voluntary code of conduct governing electronic copying and transmission of copyrighted content, the TF has failed to generate consensus among its participants. Ho described an April 3 meeting among TF members that included the MPAA, the International Federation Against Copyright Theft, the Hong Kong ISP Association, the Hong Kong Internet Society (a content user association), and Yahoo Asia - at which they decided to abandon the TF's efforts toward a voluntary framework. They agreed to jointly ask the HKG to restart its earlier substantial efforts toward legislation-backed regulations that will protect copyright owners in the digital realm. The amendments would also clarify ISP/OSP compliance requirements, and further define penalties for illicit use of protected content.

U.S. Beef Exports to Hong Kong

16. (SBU) Asia Pacific Senior Vice President for the U.S. Meat Export Federation Joel Haggard asked Stratford about possible

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USTR assistance to further open Hong Kong's market to beef exports from the United States. (Note: Hong Kong partially lifted its ban on U.S. beef in December 2005. The HKG now allows entry of U.S. boneless beef from cattle under 30 months of age. Bone-in beef and beef offals from the United States remain banned. Prior to the ban, Hong Kong annually imported almost USD 109 million of U.S. beef and offals. 2008 imports totaled only USD 55 million. End note.) Stratford described the USG's recent beef export agreement with Korea and said USTR would concentrate next on reaching a beef agreement with Taiwan, with Hng Kong-related discussions to follow.

CPSIA n "Effective Trade Barrier?"

17. (SBU) Andrew Schroth, partne at U.S. law firm Grunfeld Desiderio, said the CPIA's rapid implementation timeframe, product labling requirements and severely tightned restrictions on phthalates and lead have had a "devastating" impact on Hong Kong-based manufacturers operating in China's Guangdong province. He told Stratford that uncertainties about the U.S. Consumer Products Safety Commission's (CPSC) new CPSIA-related regulations and expedited implementation timeframes have "created an effective trade barrier" for Chinese manufacturers. Stratford responded that he had heard that meember of Congress are examining technical amendments to the CPSIA to clarify the law and provide some relief to U.S. importers and global manufacturers, while maintaining the fundamental consumer product safety protections provided under the law.

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